

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Robert Statchen
Stonington

File No. 2020-061

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Constantine Antipas of the Town of Mystic, County of New London, State of Connecticut (hereinafter “Respondent”) and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with § 9-7b-54 of the Regulations of Connecticut State Agencies and § 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Complainant alleged that a political committee established by Heather Somers had made expenditures for “web-based communications that advocated for Heather Somers’s election.” The complaint was received by the State Elections Enforcement Commission on October 9, 2020 and asked the Commission to investigate the purpose of a \$750 payment made by Somers’s political committee in December of 2019 and the relationship between the political committee’s spending and her campaign.
2. Heather Somers established her candidate committee for the 2018 election cycle on January 29, 2018.¹ Less than a month later, the Somers candidate committee hired Majority Strategies, LLC, of Jacksonville, Florida, to design the committee’s website and to set up the committee’s e-mail.² An invoice from Majority Strategies provided by the *Somers for Senate* candidate committee reflected that the committee paid \$999 for web design of the committee’s “landing page” and \$100 for e-mail setup.³
3. On or about June 10, 2019, *Somers PAC* was established as an ongoing political committee that could make contributions to both statewide and municipal elections.⁴ The chairman of

¹ See SEEC Form 1 – Registration by Candidate (*Somers for Senate*, January 29, 2018) (registering candidate committee of Heather Somers for the 18th state senate seat and appointing Constantine Antipas as treasurer).

² See SEEC Form 30 – Itemized Campaign Finance Disclosure Statement: April 10 filing (*Somers for Senate*, April 10, 2018) (reflecting payment of \$1,099 on February 7, 2018 to Majority Strategies for “WEB” services).

³ See Invoice from Majority Strategies (February 7, 2018).

⁴ See SEEC Form 3 – Political Committee Registration (*Somers PAC*, June 10, 2019) (creating ongoing political committee bearing Somers’s name with Constantine Antipas as treasurer).

the political committee is Jordanne Anderson.⁵ The political committee has a website that features pictures of Heather Somers and members of her family. The political committee paid FPI Digital LLC of Washington, D.C. a total of \$5,022 on August 29, 2019 for “WEB” costs.⁶

4. In his complaint to the Commission, complainant Statchen identified an expenditure by the Somers political committee that he believed may have been used to pay for website-related expenditures to promote Somers’s candidacy in 2020. In the Somers political committee’s January 10, 2020 filing, an expenditure of \$749.59 to Majority Strategies LLC of Jacksonville, Florida, was listed as having been paid on December 9, 2019 with the original expenditure code of “MISC.” That expenditure code was later changed to FNDR, to reflect that the political committee made an expenditure to Majority Strategies to pay for invitations to a fundraiser for the political committee. There is no evidence to suggest that the expenditures made by the political committee were for anything other than the fundraising event, as suggested.

5. Somers established her 2020 candidate committee on March 12, 2020.⁷ The candidate committee participated in the Citizens’ Election Program⁸ and applied for a grant from the Citizens’ Election Fund.⁹ The candidate committee received a grant from the Citizens’ Election Fund, in two tranches, totaling \$103,455 in July of 2020.¹⁰ The candidate committee reported receiving \$500 in personal funds from the candidate via personal check on March 2, 2020.¹¹

⁵ *Id.*

⁶ See SEEC Form 20 – Itemized Campaign Finance Disclosure Statement: October 10 filing (*Somers PAC*, October 5, 2019) (reporting expenditure for WEB items in August 2019).

⁷ See SEEC Form 1 – Registration by Candidate (*Somers for Senate*, March 12, 2020) (registering candidate committee of Heather Somers for the 18th state senate seat and appointing Constantine Antipas as treasurer).

⁸ See SEEC Form CEP 10 – Affidavit of Intent to Abide by Expenditure Limits and Other Citizens’ Election Program Requirements (*Somers for Senate*, May 26, 2020) (reflecting intent of candidate and treasurer to participate in Citizens’ Election Program and follow voluntary program rules).

⁹ See SEEC Form CEP 15 – Citizens’ Election Program - Application for Grant (*Somers for Senate*, July 2, 2020) (applying for grant from Citizens’ Election Fund).

¹⁰ See SEEC Form 30 – Itemized Campaign Finance Disclosure Statement: October 10 Filing – Original (*Somers for Senate*, October 13, 2020) (reflecting two payments from the Citizens’ Election Fund: \$42,305 on July 14, 2020 and \$61,150 on July 29, 2020).

¹¹ See SEEC Form 30 – Itemized Campaign Finance Disclosure Statement: April 10 filing – Original (*Somers for Senate*, April 13, 2020)(reflecting receipt of \$500 in personal funds from candidate on March 2, 2020).

6. The 2020 candidate committee made no expenditures for web design and e-mail services in 2020. In an e-mail message, Antipas, the treasurer of the Somers candidate committee in both 2018 and 2020 and Somers PAC since its inception in 2019, confirmed that the candidate committee did not pay for website design or maintenance in 2020. He said that the candidate committee kept the website “up” from year to year and relied on volunteers to update the webpage.¹² The website shows very few differences from 2018 to 2020. The only noticeable difference is the “News” page, which reflects stories from 2020 instead of 2018. Otherwise, the photos, layout, text, and other content of the 2020 website is identical to the 2018 version.

7. Candidate committees that intend to participate in the Citizens’ Election Program must adhere to restrictions on their spending, including those related to the use of “prior assets.” The Commission issued an advisory opinion on September 4, 2008 discussing a candidate committee’s use of campaign paraphernalia and assets purchased by a candidate committee established by the same candidate in a prior campaign cycle.¹³ The Commission stated in this advisory opinion that it applied to both participating and non-participating candidates.¹⁴ These “prior assets” could include many different types of campaign goods or paraphernalia, specifically those that were of value to the candidate because they included the candidate’s name or other unique identifying factors that would only be of value to the candidate.¹⁵ The 2008 advisory opinion updated prior guidance that was offered to candidate committees in 1997 about how to report and value assets that committees intended to re-use in subsequent election cycles.

8. Key to the analysis of these “prior assets” for candidate committees that decide to participate in the Citizens’ Election Program was the fact that these candidate committees must comply with voluntary expenditure limits.¹⁶ The amount of money that a participating

¹² E-mail from “Constantine Antipas” (antipaslaw@aol.com) to “James Talbert-Slagle” (james.talbert-slagle@ct.gov), May 14, 2021.

¹³ See Advisory Opinion 2008-02: Treatment of Prior Assets Used by Candidate Committee in Current Election Cycle (State Elections Enforcement Comm’n, Sept. 4, 2008) (providing guidance on bringing prior assets from previous campaigns into current candidate committee).

¹⁴ *Id.* at 1.

¹⁵ *Id.* at 3 (stating: “At the end of a campaign, campaign materials such as lawn signs and stationery may have nominal value to anyone other than the candidate, and no value if they are specific to a particular election cycle or so damaged that they are discarded as trash. However, if a candidate committee decides to re-use old campaign materials in a subsequent campaign, such materials have a value.”)

¹⁶ *Id.* (stating: “Expenditure limits constitute a core principle of the Program.”)

candidate committee may spend on an election is limited to the amount of money that the committee raised in qualifying contributions plus any grant funds that the committee may receive from the Citizens' Election Fund.¹⁷ If a candidate decides to provide personal funds to the candidate committee, the total amount that the committee may spend on campaign-related expenses would be reduced by an amount equal to the personal funds provided by the candidate.¹⁸

9. When opting to bring in these "prior assets," the candidate committee has two options: either offset the value of the asset against the personal funds that the candidate could give to the committee before it applies for a grant or, if the amount exceeds the personal funds amount or the candidate has already given the maximum amount of personal funds permitted under the CEP rules or if the candidate committee has already received a grant, then the candidate committee may write a check to the Citizens' Election Fund for the value of the asset that the committee intends to use. In this case, Somers could have given as much as \$2,000 in personal funds to her candidate committee in 2020.¹⁹ She provided \$500 in personal funds, so her candidate committee could have designated the \$1,099 that the 2018 candidate committee paid for the website and e-mail service as personal funds.
10. The Commission has previously advised candidate committees on how to handle "prior assets." In the 2020 participating candidate committee guidebook, the Commission advised that prior assets included "domain names" and that the candidate committee must report use of that asset if it wanted to use it again after it was purchased in a prior election cycle.²⁰ In

¹⁷ See General Statutes § 9-707 (limiting deposits into candidate committee's bank account following initial deposit from Citizens' Election Fund).

¹⁸ See General Statutes § 9-705 (j)(1) (allowing for reduction in grant funds to account for personal funds provided by candidate).

¹⁹ See General Statutes § 9-710 (c)(3) (allowing participating candidate for state senate to provide \$2,000 in personal funds to candidate committee).

²⁰ See Understanding Connecticut Campaign Finance Laws: A Guide for 2020 General Assembly Candidates Participating in the Citizens' Election Program (Connecticut State Elections Enforcement Commission, Hartford, Connecticut) February 2020. At page 17, the Commission's guide discusses how to navigate issues surrounding prior assets other than lawn signs:

Other prior assets, such as banners, stationery, palm cards, thank you notes, buttons, t-shirts, domain names, and other campaign paraphernalia left over from the candidate's prior committee(s) that have little or no value to anyone other than the candidate may be declared as a personal funds provision by the candidate at the time they are given to the campaign. If the candidate chooses to use these other types of prior assets and donates them before the committee applies for and receives a grant, the committee should value them at their original purchase price and the treasurer must report that value in Section O, "Expenses Paid by Candidate," of the

this case, the use of the website design and e-mail service for the www.heathersomers.com website by the 2020 candidate committee when it was paid for by the 2018 candidate should have been reported as a prior asset that the candidate committee wished to use again in the current election cycle.

11. The Commission has provided guidance with respect to reporting the carry forward of materials such as stationary, envelopes, stickers from one campaign to another. Generally speaking, the value of these leftover assets that are unchanged from when they were purchased originally in the prior campaign to when they are used in the current cycle is an amount equal to the original purchase price of the assets.²¹ The Commission also noted the wide variety of prior assets stored by candidates and recognized that some of these assets may depreciate in value over time.
12. When re-using some portion of an electronic website paid for in a previous committee, treasurers should determine a reasonable proportionate share of the original cost paid for the website development in the previous committee to be carried forward and reported based on several factors including, but not limited to the following: the amount originally paid for the development of the website; the extent to which text, photographs, video or audio clips used during the previous campaign were replaced or kept for the new campaign; whether there was a cost to the temp-plates used for the structure of the website; and the extent to which logos or themes developed and paid for by a previous campaign were carried forward and used.
13. The candidate committee here did not engage in that type of analysis and allocation regarding the website that it utilized during the 2020 election cycle.

SEEC Form 30, indicating the date the candidate provided the prior asset to the campaign as the date of payment, that reimbursement was not sought, a description of the assets provided in the description field, and the original purchase price as the amount. Unlike lawn signs, there is no minimum threshold for reporting the provision of other prior assets. Thus, the campaign must report such provision of prior assets and they will affect the grant amount, no matter how minimal the value.

If the candidate donates the prior assets after the committee receives a grant, the committee will have to write a check out to the CEF for the value of the assets provided. This expense is reported in Section N, "Expenses Paid by Committee," of the SEEC Form 30, with CEF as the payee and CEF as the code, along with a brief description of the prior assets provided.

²¹ See Advisory Opinion 2008-02: Treatment of Prior Assets Used by Candidate Committee in Current Election Cycle. <https://seec.ct.gov/Portal/data/AdvisoryOpinions/ao200802.pdf>

14. The respondent here has cooperated with the investigation into this matter. He has not been subject of a prior investigation by the Commission.
15. The Commission investigated the specific allegations raised by the Complainant and found no evidence that the Somers PAC political committee paid for the website maintenance or design for the Somers candidate committee in 2020.
16. Upon further investigation, however, it was determined that that the 2020 candidate committee did fail to list the website that it used again from the 2018 election cycle as a prior asset being brought into the 2020 candidate committee. Continued use of that website, without some acknowledgment that it was being brought into the 2020 candidate committee as a prior asset, violated the advice included in Advisory Opinion 2008-002 related to use of prior assets.
17. As enumerated in § 9-7b-48 of the Regulations of Connecticut State Agencies:
In its determination of the amount of the civil penalty to be imposed, the Commission shall consider, among other mitigating or aggravating circumstances:
 - (1) the gravity of the act or omission;
 - (2) the amount necessary to insure immediate and continued compliance;
 - (3) the previous history of similar acts or omissions; and
 - (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.
18. The Commission possesses the authority to set the punishment it imposes on individuals who violate the statutes under its authority. While the maximum penalty available under the enabling statute is \$2,000 per offense or twice the amount of any improper expenditure, the Commission also has the authority to set a lesser penalty where circumstances call for such leniency.
19. It is understood and agreed that this agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used by either party as an admission in any subsequent hearing or against the Company in any proceeding, if the same becomes necessary.

20. Respondent waives:

- a. any further procedural steps;
- b. the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
- c. all rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this agreement.